POWER, PANOPTICISM AND SURVEILLANCE: A PANOPTIC PERSPECTIVE ON AADHAAR

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ABSTRACT
The subject of the evolution of surveillance and its incorporated technologies is a topic that is important to examining the state of surveillance and its impacts on contemporary society. This paper attempts to summarize the Power, Panopticism and Surveillance and the controversial Aadhaar project. The twentieth century witnessed the emergence of technology as the new face of governance. E-governance and many modernization government programme were introduced to improve the quality of governance especially in the field of national security. Post 9/11 era when war against terror and related paranoia ruled the world possibilities of national biometric identity cards were proposed with haste in various countries. In 1980s efforts were there in Australia to issue national identity cards, similar attempts in Canada, Philippines, China, and United Kingdom. The real ID project of the Bush administration in the US also attracted attention worldwide. This paper explores the details about the Indian government’s controversial project of Aadhaar. The paper discussed about the power centric panoptical perspective on the Aadhar.

KEYWORDS: Power, Panopticism, Surveillance, Aadhaar, Democracy, National Identity, UIDAI.

Introduction
The concept of power has been debated among philosophers for as long as humans have been able to record. According to Michel Foucault, the glimpse at one aspect of power in his work Panopticism, he provides a definition for the Panopticon, an all-seeing individual or institution, which may or may not be watching a certain person or society at any given time. Foucault’s arguments present the incredible power of the Panopticon not as a physical idea, acquired by strength, but as something that is more felt and thought. Its power lies in its ability to frighten, and in the knowledge of what it could potentially do. Panopticism is also present in many forms in all of today’s discourse communities; the controversial government project of Aadhaar is also an example.

Panopticism is powerful in many ways, but one of these is simply the way in which the Panopticon can take many different forms which are constantly around us in society. Foucault connects the idea of Panopticism first to a prison, and then to a town which is under quarantine due to a plague. He connects these two situations by noting the similarities in surveillance,
beneath which both are kept. Within the walls of a prison, every move of each prisoner is caught on camera. Likewise, in a quarantine situation, the government steps in to control every aspect of life in the community, so that the disease does not spread to other communities.

Citizens are watched, though as with prisons, there is that uncertainty as to exactly when someone is watching. According to Foucault, panoptic surveillance can be employed almost anywhere; in “hospitals, workshops, schools, prisons.” He claims that whenever one is dealing with a multiplicity of individuals on whom a task or a particular form of behavior must be imposed, the panoptic schema may be used. Foucault’s idea of Panopticism, therefore, states that it is present wherever there is the element of being watched by some all-seeing surveillance, and wherever there is the knowledge that one’s every move may be seen by that strange power. The mere connection of notably bleak and terrible places like prisons to the more common idea of schools and workshops creates a strange and psychologically frightening image of Panopticism. It is everywhere, and its power lies in the fact that this is so.

The twentieth century witnessed the emergence of technology as the new face of governance. E-governance and many modernization government programme were introduced to improve the quality of governance especially in the field of national security. Post 9/11 era when war against terror and related paranoia ruled the world possibilities of national biometric identity cards were proposed with haste in various countries. In 1980s efforts were there in Australia to issue national identity cards, similar attempts in Canada, Philippines, China, and United Kingdom. The real ID project of the Bush administration in the US also attracted attention worldwide. This paper explores the details about the Indian government’s controversial project of Aadhaar and discussion of the hidden side.

**Background of the Aadhaar Project**

In India steps in this direction began with, ‘Kargil Review Committee Report’ submitted in January 2000. The committee recommended that ID cards be issued immediately to people in border districts to prevent infiltration and find out illegal immigrants. Based in this a Group of Ministers in a report titled Reforming the National Security System noted “All Citizens should be given a Multipurpose National Identity Card (MNIC) and noncitizens should be issued identity cards of a different color and design”. Acting upon the report Government of India initiated a process for the creation of National Register of Citizens in 2003.

Strategic vision on the UIDAI Project was prepared and submitted to this committee by M/S Wipro Ltd. It envisaged the close linkage that the UIDAI would have to the electronic database. The committee also appreciated the need of a UIDAI Authority to be created by an executive order under the aegis of the Planning Commission to ensure a pan-departmental and neutral identity for the authority and at the same time enable a focused approach to attaining the goals set for the XI plan. The seventh Meeting of the Process Committee on 3 august 2007 decided to furnish to the planning commission a detailed proposal based on the resources model for seeking its in principle approval(www.uidai.gov.in). The present UPA Government soon after assuming power formed Unique Identification Authority of India (UIDAI) in 2009. The programmed named Aadhaar was inaugurated in 29th September 2009 by Prime Minister Dr.
Manmohan Singh. The first resident to receive Aadhaar was Ranjana sadashiv Sonavane of Tembhili village in Maharashtra.

Aadhaar is a brand name of Unique Identification Number that the Unique Identification Authority of India (UIDAI) will issue to every resident of India. The twelve digit number is linked to the resident’s demographic and biometric information, which they can use to identify them everywhere in India, and to access a host of benefits and services. Each number relates to a set of information stored in centralized data base that provides for real time verification.

Unique Identification Authority of India is the government agency responsible for the implementation of Aadhaar. UIDAI was set up through notification number A-43011/02/2009 admin.1 dated 28/01/2009 as an attached office of the planning Commission. As per the notification on UIDAI has been assigned the responsibilities of laying down the plan and policies to implement the UIDAI Scheme, own and operate UIDAI database including its updation and maintenance on an ongoing basis. The implementation of the scheme entails, inter-alia, the responsibilities to generate an and assign UID number to resident and define 15 sage and applicable of UID for delivery of various services. Nandan Nilekani former Co-chairman of Infosys was appointed as the Chairman of UIDAI (with Cabinet Rank) R.S. Sharma is the Director General and Mission Director of UIDAI.

The data stored in the Central ID repository (CIDR) include basic biometric and demographic information of every individual in India. Photograph, ten fingerprints and the iris scans are the biometric information collected. Various state governments and enrolling agencies are incorporating who-knows-what all details in forms. Aadhaar project is being implemented in two phases. Phase I compromises of setting up of necessary infrastructure at the Head Quarters and Regional Offices, testing facilities, putting the man power and process to kick start the programme. Phase II, involves enrolling of people in the scheme through some enrolling agencies. Then the process of de-duplication (de-duplication is the process by which data collected through enrollment process is subjected to verification by the UIDAI by biometric matching to ensure that no duplication has occurred). And the process of data updating by which any change in the biometric or demographic data is recorded in time.

The data collected during enrollment process which include demographic and biometric information would be stored in Central ID Repository (CIDR) maintained by the UIDAI. The scheme has a multi registrar approach. The registrar General of India having the responsibility of preparing the National Population Registry (NPR) under the citizenship Rule 2003 is one of the main registrars of UIDAI. This multi registrar approach would reduce the risks associated with data security says the UIDAI. The data stored in the CIDR is used for the verification of identify of the resident who has a UID number. A real time verification system will be made available to all service providers who prefer to make use of Aadhaar. These might include various social welfare schemes of the government like Public Distributing System (PDS) and National Rural Employment Guarantee Scheme (NREGS) and financial institutions like Banks. The UIDAI also contemplates expanding the use of Aadhaar to various other applications in private and public sectors. UIDAI says it would provide only indentify verification to personal information would be made available to their agencies whether government or private. The UIDAI has entered into
contract with a number of service providers for the procurement of equipments. HCL Info-
systems which will provide Internet & Knowledge management Portal, services will be
procuring equipment from companies of Non-Indian origin Microsoft SharePoint, Microsoft,
USA Hardware, HP, and LI Identity Solutions.

Aadhaar is symbolic of the new and modern India says the Prime Minister, so we have every
right to understand that modern India means for its citizens. It should be a matter of concern that
there has been no informed public debate on the issues concerned with the implementation of
Aadhaar, but for the promotional literature issued by the UIDAI. There seldom had any
discussion in the mainstream media, especially in the visual media and regional dailies, about the
project and about its social implication (R. Ramkumar 2011).

Another important question is that is Aadhaar mandatory?, the answer for sure is ‘No’ says the
UIDAI, but as R. Ramakumar, Associate Professor, Tata Institute of Social Sciences, point out
that Aadhaar has stealthily being made mandatory, by linking UID to National Population
Register the UIDAI has made Aadhaar, de facto compulsory for every citizen. There are no penal
consequences if a person does not chose to get an Aadhaar number says R.S. Sharma, Director
General and Mission Director of UIDAI this is utter nonsense. For the citizenship rules 2003
requires every Indian citizen to compulsory register with the Local Register of Citizen Registrar
and provide correct individual particulars. Rule 17 explicitly provides for penal consequences if
a person fails to comply. It is admitted by UIDAI that data collected for National Population
Register (NPR) will be fed into the UIDAI database and NPR would issue a card bearing the
UID Number. The case is crystal clear that Aadhaar is mandatory.

Every citizen under international and domestic laws has the right to privacy. The International
Covenant on Civil and Political Rights (CCPR) ratified by the government of India requires that
the right to privacy of every individual be protected from arbitrary or unlawful interference by
the state. As upheld by the Apex Court right to privacy is explicit under article 21 of the
Constitution of India (Article 21) of the constitution of India. As per the article 13(2) “the State
shall not make any law which takes away or abridges the right conferred by this part and any law
made in contravention of this clause shall, to the extent of the contravention, be void. In addition
the Hindu Marriage Act, The Copy Right Act, Code of Criminal Procedure, Juvenile Justice Act
(Care and Protection) Act 2000 and the Census Act, 1948 provides for the protection of privacy
of an individual. A notable case is Census Act, 1948 which in many ways is related to collecting
information from individual. Under section 15 of the act, the information that is collected by
Census Agency is neither open to inspection nor admissible in evidence. This ensure the
confidentially of personal information of individuals while allowing the state to have a profile of
the population as a whole.

The National Identification Authority Bill 2010 on the other hand empowers the government to
access the data in the CIDR which constitutes the National Population Register. Many of us may
not be aware of the fact that NPR was not an exercise done under the Census Act 1948. The NPR
is under Citizenship rules 2003 which came as an amendment to citizenship act 1955. This was
done to bye pass the confidentially enriched in the Census Act. Also the act makes a national
identity number compulsory. It shall be the responsibility of every citizen to once register with
the Local Register of Citizen Registration and to provide correct individual particulars and the onus of getting enrolled in the NPR has been placed on the resident. The Law further states: any violation of rules 5.7.8.10. 11 and 14 shall be punishable with fine which may extend to rupees thousand. By linking UIDAI with NPR Aadhaar is made mandatory. Thus the state or UIDAI would have the individual profile of every resident.

The table reproduced above from the UIDAI websites says “Aadhaar will give only Yes or No” response to any Identification Authentication queries and UIDAI information will not be made available to any public or private agencies. But see what the proposed NIAI Bill 2010, has in section 33: Nothing contained in the sub-section (3) of section 30 shall apply in respect of (a) any disclosure of information (including identity information or details of authentication) made pursuant to an order of a competent court; or (b) any disclosure of information (including identity information) made in interests of national security in pursuance of a direction to that effect issued by an officer not below the rank of Joint Secretary or equivalent in the Central Government after obtaining approval of the Minister in charge.

It’s a clear case for the Stage’s intrusion into privacy of the citizen. India has launched many projects Criminal Tracking Network and Systems (CCTNS), National Counter Terrorism Centre (NCTC), Central Monitoring System (CMS), Centre for Communication Security Research and Monitoring (CCSRM) etc, all without proper legal framework or approval of the Parliament. Another question is Market Intrusion? In the context of unique identity part of this database could be shared with even purely private smart card initiatives such as private banking/financial services on a pay as-you-use principle. These agencies can borrow unique ID and related information from the managers of these database and load further applications in making specific smart cards. While the original sources of data can be updated by the data managers, the updating of supplementary parts will remain the responsibility of the service providers.

In the neo-liberal era far greater chances are there for private players to exploit the personal information than anyone would imagine. Reports are already emanating from different parts of the country about malpractices of the private payers involved in Aadhaar data collection process. On December 5, 2011 Money Life reported that UIDAI found Madras Security Printers Pvt Ltd and Alankit Assignment guilty for subcontracting work to other vendors. The Andhra Pradesh state government also received server complaint against both the vendors for misuse and sale of data private firms. Another issue is the question of Foreign Players involvement, the private players involved in data collection and storage include L1 Identity Solution, a company that provides similar services to CIA and FBI of the US and Accenture. L1 identity solutions have many ex-CIA personal on their staff and board. None of the companies can refuse handing over data to the US if they ask for. Possibilities of data theft, corruption and leakages are very high. As illustrated live on TV chaos computer club in Germany hacker attack on the CIDR is a real danger. With no specific laws like US Federal Privacy Statute or the European Directive on data protection we could be in huge trouble. The stolen data can be used for many unforeseen purposes; it will make hackers easier for accessing our bank accounts. Thieves have amazing knowledge technology and their schemes and imaginations are mind-blogging on October 7, 2011, an American court indicated 111 men in one of the worst cases of data theft in world history when identities of thousands of people were stolen and their bank accounts were emptied.
through forged American express, Discover Master Cards and Visa Cards with stolen credit card numbers. These were held up at gun point, but the impact on victims was the same, New York Police Commissioner Raymond Kelly said, they were robbed. Proposals for using UID and biometric certification for accessing banking services run greater risks for data once hacked cannot be changed. If a credit card number is stolen we can stop the harm by disposing off with the service, if our ID card is stolen, we can get a duplicate ID card or new one after cancelling the former, but we cannot do that with our UID number as our finger prints or iris scans cannot be changed at will be left with no option but to suffer the consequence.

The global experiences on the national ID cards schemes should have guided the policies of our government, especially in an era of globalization. But it seems to our government has turned a blind eye towards experience abroad. All nationals ID card schemes across the world have faced still resistances from Civil Liberty Groups. In 1985 Australia came out with the proposal to issue national ID card called ‘Australia Card’. After a rigorous opposition and fierce protests the proposal was withdrawn in 1987. The experience in the United States, United Kingdom, Canada and Philippines were similar. In countries where there is voluntary security numbers have founded it difficult to deal with problems of data theft and misuse.

Democracy, the concept and way of governance we all accept is based on the principle that a government is an instrument to serve the people and not an instrument to master them. Privacy and liberty are basic right of every individual. No government has the right to open a file on each citizen and criminalize those who refuse to comply.

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